

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6172

BILL NUMBER: HB 1234

NOTE PREPARED: Mar 8, 2010

BILL AMENDED: Mar 5, 2010

SUBJECT: No Contact Orders.

FIRST AUTHOR: Rep. Reske

FIRST SPONSOR: Sen. Becker

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☒ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Condition of Bail and Violation of Non-Contact Order* – It requires a court to include as a condition of bail the requirement that a defendant charged with a violent crime that results in bodily injury to a person refrain from any direct or indirect contact with the victim for 10 days after release or until the initial hearing, whichever occurs first, if the defendant is released to bail without the court having held a bail hearing in open court. A person who knowingly or intentionally violates a non-contact order commits a Class A misdemeanor as a first offense and a Class D felony if the person has a prior unrelated conviction for any invasion of privacy violation.
- B. *Determinations Concerning the Remains of a Decedent* – It prohibits certain persons from making certain determinations concerning the remains of a decedent if the decedent had filed a protection order against the person and the protection order currently is in effect.
- C. *Dispensing a Controlled Substance* – It provides that a pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance in a retail pharmacy to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance. A person who violates this provision commits a Class A misdemeanor.

- D. *Batterer's Intervention Programs* – It provides that a court may require a person convicted of domestic battery to complete a certified batterer's intervention program. It provides that a court may require a person charged with domestic violence to wear a GPS tracking device as a condition of bail.
- E. *211 Telephone Services* – It provides that 211 telephone services shall include assistance with parental stress issues.
- F. *Patient's Records* – It specifies that: (1) records concerning communicable diseases may be disclosed; and (2) patient records that have been classified as confidential are not required to be made available for inspection after 75 years (as required for other confidential records). It sets parameters that a public agency must follow when creating exceptions for the disclosure of records.
- G. *HIV Testing* – It provides an exception to the human immunodeficiency virus (HIV) testing consent statute. It provides that if a victim of certain crimes requests that a defendant be tested for HIV, the defendant must be tested.

Effective Date: Upon passage; July 1, 2010.

Explanation of State Expenditures: *211 Telephone Services* – IN 211 reports the provisions of the bill that require parent-stress provisions as part of the 211 human services will result in no fiscal impact.

Second Violation of a Non-Contact Order – A Class D felony is punishable by a prison term ranging from six months to three years. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Dispensing of Controlled Substance; Violation of Non-Contact Order* – A violation of this provision would, under current law, constitute a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Second Violation of a Non-Contact Order – If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Batterer's Intervention Programs* – The bill requires a court to order individuals convicted of domestic battery to attend and finance the expenses of a batterer's intervention program. Any expenditures (1) the Department of Corrections, (2) a county jail, (3) a community corrections program, (4) a probation office, or (5) a parole authority may experience to provide this programming is to be offset by user fees. No fiscal impact is expected as a result.

Dispensing of Controlled Substance; Violation of Non-Contact Order – A Class A misdemeanor is punishable by up to one year in jail.

Second Violation of a Non-Contact Order – If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *HIV Testing* – This provision would put Indiana in compliance with federal requirements for eligibility for grant money from U.S. Department of Justice Violence Against Women Act. Current federal law requires that persons who are arrested for a sexual assault are required to be tested within 48 hours if requested by the alleged victim. At a minimum, local programs providing services for victims of domestic violence and sexual assault in at least three counties are currently not eligible for using the last 5% of their federal funding if the 48-hour language is not included in statute. This provision will ensure that local programs continue to receive revenue from this funding source.

Dispensing of Controlled Substance; Violation of Non-Contact Order – If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: DOC, Criminal Justice Institute, Department of Child Services, State Department of Health.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: DOC; Indiana Sheriffs Association; Ellen Holland, DCS; John Krom, Executive Director, Indiana 211, (317) 921-7527; Scott Zarazee, IN State Department of Health; Laura Berry, Indiana Coalition Against Domestic Violence.

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